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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,022	12/06/2001	Thomas James Dubil	US 018198	8991

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EXAMINER
BROWN, VERNAL U

ART UNIT	PAPER NUMBER
2635	

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _22 November 2005_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-23 and 25-28_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-23 and 25-28_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _22 November 2005_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

This action is responsive to amendment filed on November 22, 2005.

Response to Amendment

The examiner has acknowledged the amended claims 1, 7, 15 and the cancellation of claims 24

and 29.

Drawings

The drawings were received on 11/22/05. These drawings are accepted.

Response to Arguments

Applicant's arguments filed November 22, 2005 have been fully considered but they are

not persuasive.

Regarding applicant's argument on pages 14-15 regarding notifying the remote source

concerning the availability of the charging device, Averbuch et al. teaches setting a flag

indicating the availability of updated data (col. 3 lines 2-4) and when a flag is detected the

charger downloader choose the best time to contact the server and initiate the software download

(col. 5 lines 13-39). The initiation of the software download by the charger implies that the

charger is available for download and when the flag is set and the download is not initiated by

the charger further implies that the charger is not available for download due to the activity

present on the network connection to the charger

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 5,6, 7-15, 17-21, and 25 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Averbuch et al. U.S Patent 5,689,825 in view of Shanahan US Patent

6,496,692.

Regarding claims 1 and 7, Averbuch et al. teaches a charger system comprising:

a charger comprising coupling means for coupling to a rechargeable device (figure 1),

wherein the coupling means includes charging means (108) for providing an electrical charge to

the rechargeable device and means for transferring data to the rechargeable device (col. 2 lines

10-17); and means for receiving the data from a remote source and transferring the data upon

receipt to at least one of the means for transferring and a storage means of the charger (col. 2

lines 20-22). Averbuch et al. teaches setting a flag indicating the availability of updated data (col.

3 lines 2-4) and when a flag is detected the charger downloader choose the best time to contact

the server and initiate the software download (col. 5 lines 13-39). The initiation of the software

download by the charger implies that the charger is available for download and when the flag is

set and the download is not initiated by the charger further implies that the charger is not

available for download due to the activity present on the network connection to the charger.

Averbuch et al. is however silent on teaching selectively transferring data to the rechargeable

device and the storage means of the charger. Shanahan in an art related method for programming

information into an electronic device downloading data from a remote source and selectively

storing data in the memory of the downloading device or transferring the data directly to be

programmed in the device and the selective routing of data is performed by the processor (col. 4

lines 30-45) in order to facilitate any necessary processing of the downloaded data. Shanahan

also teaches. Shanahan also teaches the programmer has an input device such as a keyboard for

monitoring the data file transfer and ensuring the programmable device received the selected

files (col. 4 lines 45-48) and further teaches the format of the data to be transfer is selected by the

user (col. 6 lines 56-60). Therefor by selecting the format of the data the user inherently selects

whether data is transferred directly to the programmable device or to the buffer of the

programmer.

It would have been obvious to one of ordinary skill in the art to selectively transfer data

to the rechargeable device and the storage means of the charger in Averbuch et al. as evidenced

by Shanahan because Averbuch et al. suggests a charger system for downloading data and

transferring the data to a rechargeable device and Shanahan suggests downloading data from a

remote source and selectively storing data in the memory of the downloading device or

transferring the data directly to be programmed in the device in order to facilitate any necessary

processing of the downloaded data.

Regarding claim 2, Averbuch et al. teaches the charging means provides an electrical

charge to the rechargeable device and the means for transferring the data to the rechargeable

device simultaneously (col. 2 line 65-col. 3 line 2) and (col. 6 lines 54-56).

Regarding claim 3, Averbuch et al. teaches receiving data from the remote source over the INTERNET (col. 5 lines 32-36).

Regarding claim 5, Averbuch et al. teaches downloading software to the portable device (col. 2 lines 10-12). Software programs inherently include executables.

Regarding claims 6 and 9, Averbuch et al. teaches downloading the software for operating the portable device (col. 2 lines 18-22). The downloaded software represents the operating instruction for the portable device and is considered schedule information because the software controls the operation of the portable device.

Regarding claim 8, Averbuch et al. teaches the remote source is a server (104) (col. 2 line 20) and initiating the transfer of data from the server (col. 2 lines 25-26).

Regarding claims 10-11, Averbuch et al. teaches the step of programming the charging device via the remote source (wireless portable device) to transmit the request signal to the server by setting a flag in the wireless device (col. 4 lines 54-60) and using this flag to determine when to download the software. The wireless device is also the charging device (col. 2 line 67-col. 3 line 2).

Regarding claim 12, Averbuch et al. teaches notifying the remote source of the availability of the charging device for receiving the data by initiating the software download (col. 2 lines 25-26).

Regarding claims 13-15, Averbuch et al. teaches a method for providing data to a rechargeable electronic device comprising the steps of:
receiving data from a remote source via a charging device (col. 2 lines 10-16);

storing the received data within the charging device (col. 2 lines 26-28);

coupling the rechargeable electronic device to the charging device (col. 2 lines 15-18).

Averbuch et al. further teaches charging the rechargeable electronic device and transferring the

stored data and the received data from the charging device to the rechargeable electronic device

(col. 2 lines 30-35). Averbuch et al. teaches setting a flag indicating the availability of updated

data (col. 3 lines 2-4) and when a flag is detected the charger downloader choose the best time to

contact the server and initiate the software download (col. 5 lines 13-39). The initiation of the

software download by the charger implies that the charger is available for download and when

the flag is set and the download is not initiated by the charger further implies that the charger is

not available for download due to the activity present on the network connection to the charger.

Averbuch et al. is however silent on teaching selectively transferring data to the rechargeable

device and the storage means of the charger. Shanahan in an art related method for programming

information into an electronic device downloading data from a remote source and selectively

storing data in the memory of the downloading device or transferring the data directly to be

programmed in the device and the selective routing of data is performed by the processor (col. 4

lines 30-45) in order to facilitate any necessary processing of the downloaded data. Shanahan

also teaches the programmer has an input device such as a keyboard for monitoring the data file

transfer and ensuring the programmable device received the selected files (col. 4 lines 45-48) and

further teaches the format of the data to be transfer is selected by the user (col. 6 lines 56-60).

Therefor by selecting the format of the data the user inherently selects whether data is transferred

directly to the programmable device or to the buffer of the programmer.

It would have been obvious to one of ordinary skill in the art to selectively transfer data to the rechargeable device and the storage means of the charger in Averbuch et al. as evidenced by Shanahan because Averbuch et al. suggests a charger system for downloading data and transferring the data to a rechargeable device and Shanahan suggests downloading data from a remote source and selectively storing data in the memory of the downloading device or transferring the data directly to be programmed in the device in order to facilitate any necessary processing of the downloaded data.

Regarding claim 17, Averbuch et al. teaches the remote source is a server (104) and also teaches means for initiating transfer of the data from the server to the charging device by transmitting a request signal to the server (col. 2 lines 25-26).

Regarding claim 18, Averbuch et al. teaches means for initiating transfer of the data from the server to the charging device by transmitting a request signal to the server (col. 2 lines 25-26).

Regarding claim 19, Averbuch et al. teaches programming the charging device via the rechargeable electronic device to transmit the request signal to the server by setting a flag in the wireless device (col. 4 lines 54-60) and using this flag to determine when to download the software. The wireless device is also the charging device (col. 2 line 67-col. 3 line 2).

Regarding claims 20 and 25, Averbuch et al. teaches the selectable transfer occurs in response to a time-based event (col. 5 lines 13-23).

Regarding claims 21 and 26, Averbuch et al. teaches the user selects the data to be transfer (col. 6 lines 56-60).The transfer of data is therefore overidable because the user select whether or not data is to be transferred.

Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch et al. U.S Patent 5,689,825 in view of Shanahan US Patent 6,496,692 and further in view of Reed U.S Patent 4,700,375.

Regarding claims 4 and 16, Averbuch et al. in view of Shanahan teaches a rechargeable portable device (col. 2 lines 10-17) but is silent on teaching the rechargeable device function as a remote control. Reed in an art related Battery charger and Data Transfer System teaches a rechargeable device functioning as a remote control (col. 5 lines 66-68), which is also a conventional practice.

It would have been obvious to one of ordinary skill in the art to have the rechargeable device function as a remote control in Averbuch et al. in view of Shanahan as evidenced by Reed because Averbuch et al. in view of Shanahan suggests a rechargeable portable device and Reed teaches a rechargeable device functioning as a remote control in order to control other devices.

Claim 22-23 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Averbuch et al. U.S Patent 5,689,825 in view of Shanahan US Patent 6,496,692 and further in view of Averbuch et al. US Patent 5896566.

Regarding claims 22-23 and 27-28, Averbuch et al. in view of Shanahan teaches the data transfer is initiated by setting a flag (U.S Patent 5,689,825, col. 4 lines 54-66) but is silent on teaching the flag is set by a remote source. Averbuch et al. (US Patent 5896566) in an art related software update system teaches the remote source setting a flag indicating new updated data is

available (col. 2 lines 18-23) in order to enable the transfer of updated software to the portable

device. The process is repeated whenever updated software is available to be downloaded.

It would have been obvious to one of ordinary skill in the art for the data transfer to be

initiated by the remote source in Averbuch et al. (U.S Patent 5,689,825) in view of Shanahan as

evidenced by Averbuch et al. (US Patent 5896566) because Averbuch et al. (U.S Patent

5,689,825) in view of Shanahan suggests the data transfer is initiated by setting a flag and

Averbuch et al. teaches the remote source setting a flag indicating new updated data is available

in order to enable the transfer of updated software to the portable device.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U. Brown whose telephone number is 571-272-3060. The examiner can normally be reached on 8:30-7:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vernal Brown
February 8, 2006
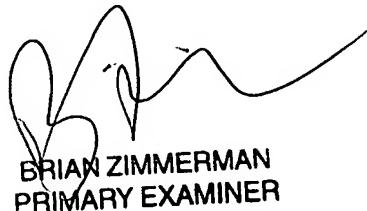
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